

BOARD OF BARBERING AND COSMETOLOGY
PROPOSED LANGUAGE

Title 16, Division 9 of the California Code of Regulations.

(1) Adopt Section 973 of Article 10 to read as follows:

973. Grounds For Immediate Suspension.

Pursuant to Business and Professions Code section 7403.2, a representative of the board shall make a request to the board's executive officer or his/her designee for an order to immediately suspend temporarily a license and place the license on probation on the grounds that the licensee has any of the following conditions at the licensed establishment or school:

- (a) Pedicure foot spas, basins, or tubs that are not visibly clean;
- (b) Pedicure foot spas in which debris has been found upon the removal of screens, jets, foot-plates, or impellers;
- (c) Inadequate cleaning material for the proper disinfection and sanitation of manicuring and/or pedicuring equipment found on-site at the establishment;
- (d) No pedicure cleaning logs;
- (e) A history of repeated health and safety violations pertaining to manicuring or pedicuring equipment; or
- (f) Manicure and/or pedicure implements that are not visibly clean.

NOTE: Authority cited: Section 7312, Business and Professions Code.

Reference: Section 7403.2, Business and Professions Code.

(2) Adopt Section 973.1 of Article 10 to read as follows:

973.1 Procedures For Issuing Immediate Suspension.

The board's executive officer or his/her designee shall render an opinion based upon an inspection conducted by a board representative. The representative shall transmit photographic evidence to the executive officer or his/her designee by means of immediate electronic transmission. Upon receipt of the photographic evidence, the executive officer or his/her designee shall make a determination if action is necessary to protect the public's health and safety. The executive officer or his/her designee shall issue a written notice of immediate suspension.

NOTE: Authority cited: Section 7312, Business and Professions Code.

Reference: Section 7403.2, Business and Professions Code.

(3) Adopt Section 973.2 of Article 10 to read as follows:

973.2. Content Of Immediate Suspension Notice.

The immediate suspension notice shall contain all of the following:

- (a) A statement that describes with particularity the nature of the violation, including a reference to the specific provision that has been violated;
- (b) A statement that the suspension is immediately stayed and the license is placed on probation for one year;
- (c) The effective dates of probation; and

(d) A description of the appeal process.

NOTE: Authority cited: Section 7312, Business and Professions Code.

Reference: Section 7403.2, Business and Professions Code.

(4) Adopt Section 973.3 of Article 10 to read as follows:

973.3. Terms and Conditions of Probation.

A licensee that has been subject to immediate suspension and placed on probation pursuant to Business and Professions Code section 7403.2 and regulation section 973, shall comply with the following terms and conditions:

- (a) A licensee on probation must submit to the board on a monthly basis a report that indicates the following, and is signed under penalty of perjury:
 - (1) A copy of all pedicure cleaning logs; and
 - (2) Proof, if any, of completion of board approved remedial training as defined by regulation section 973.4.
- (b) An establishment of a licensee that has been placed on probation shall be inspected on a quarterly basis and may be inspected more frequently. The owner of the establishment is responsible for paying all fees required to cover the costs for inspection. The fee for inspection shall be \$42 for each workstation at the establishment. A workstation is a pedicure station or a manicure station.

- (c) A licensee on probation shall pay all administrative fines. In a case of economic hardship, the licensee may request to have a payment plan established by the board.
- (d) A licensee who has been subject to suspension and placed on probation in accordance with section 7403.2 of the Business and Professions Code shall complete an 8-hour board approved remedial training course.

NOTE: Authority cited: Section 7312, Business and Professions Code.

Reference: Section 7403.2, Business and Professions Code.

(5) Adopt Section 973.4 of Article 10 to read as follows:

973.4. Remedial Training Defined.

Remedial training shall be a course of instruction approved by the board that focuses on the disinfection and sanitation of pedicure and manicure equipment. The remedial training course shall specifically address the board's health and safety laws and regulations.

NOTE: Authority cited: Section 7312, Business and Professions Code.

Reference: Section 7403.2, Business and Professions Code.

(6) Adopt Section 973.5 of Article 10 to read as follows:

973.5. Approval of Remedial Training Course.

(a) In order for a remedial training course to be approved by the board, a provider shall complete an application for course approval that provides the following information to the board:

(1) Description of course contents. The course content shall be pertinent to the health and safety laws and regulations of the board. The course shall focus on the safety and sanitation of pedicure and manicure equipment.

(2) Method of instruction of course offered. Teaching methods for each course shall be described, e.g. lecture, seminar, audiovisual, etc.

(3) Proof that instructors are qualified to teach the specified course content by virtue of their prior education, training, and experience. A resume of each instructor shall be forwarded with the application for approval.

(4) The application for course approval shall state the name of the provider and location where instruction will be given.

(b) Any modifications or subsequent changes to an approved remedial training course shall meet the requirements provided in this section and are subject to approval of the board.

(c) The board shall withdraw the approval of any course for failure to comply with any provisions of this section. The withdrawal for approval shall continue until such time as the training course provider meets the requirements of this section and obtains written approval from the board.

NOTE: Authority cited: Section 7312, Business and Professions Code.

Reference: Section 7403.2, Business and Professions Code.

(7) Adopt Section 973.6 of Article 10 to read as follows:

973.6. Appeal Process.

- (a) A licensee that has received an immediate suspension and has been placed on probation may, within 30 calendar days of the date the suspension notice was served, notify the board in writing of his/her request for an informal review hearing before the board's disciplinary review committee.
- (b) Upon receipt of the timely request, the board shall schedule a hearing to be held in either Northern or Southern California, whichever is closest to the suspended/probationary licensee. Appeals requested under this section shall be heard at the next regularly scheduled disciplinary review hearing.
- (c) Board staff shall, at least 30 calendar days before the date of the hearing, mail written notice to the probationary licensee of the date, time, and location of the hearing. To expedite the scheduling of a disciplinary review hearing, a licensee that has been placed on probation may waive the 30-day notice by agreeing to do so in writing.
- (d) The probationary licensee shall appear at the hearing and may bring legal counsel or an authorized representative to the hearing. The probationary licensee may present written information and/or oral testimony to the disciplinary review committee. The probationary licensee may contest or

appeal any of the following aspects of the immediate suspension/probationary license:

- (1) The occurrence of a violation of the Barbering and Cosmetology Act or the regulations adopted by the board;
- (2) The period of time for correction, if any; or
- (3) The amount of the fine.

(e) The disciplinary review committee may affirm, modify, or dismiss an order of immediate suspension and imposition of probation. A written decision based on findings of fact and legal conclusions shall be mailed to the suspended/probationary licensee and his/her legal counsel, if any, within 30 days from the date of the disciplinary review hearing. Any modification to an order of immediate suspension and probation made by the disciplinary review committee shall be a final decision of the committee and only subject to appeal as provided in subdivision (h) of this section.

(f) In the event that the disciplinary review committee has determined that there are no facts to sustain the immediate suspension and probationary license, the disciplinary review committee shall dismiss the order of immediate suspension and imposition of probation. A decision of dismissal shall be effective immediately at the conclusion of the hearing. This decision shall be deemed final.

(g) If the suspended/probationary licensee fails to appear for the disciplinary review hearing and fails to show good cause for failure to appear, as defined in section 975 for failure to appear, the suspension/probationary license shall

become final and effective as of the date of issuance. There shall be no administrative appeal.

- (h) If the disciplinary review committee affirms or modifies the order of immediate suspension and imposition of probation, the licensee may request in writing a hearing before an administrative law judge pursuant to section 7411 of the Business and Professions Code. If the disciplinary review committee dismisses the order of immediate suspension and imposition of probation, any request before an administrative law judge shall be deemed withdrawn.
- (i) The board shall notify in writing each licensee subject to immediate suspension and imposition of probation when the probation period terminates.

NOTE: Authority cited: Section 7312, Business and Professions Code.

Reference: Section 7403.2, Business and Professions Code.